

**** E-filed September 6, 2011 ****

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MARVIN MALDONADO,

No. C09-03463 HRL

Plaintiffs,

v.

CREW MAINTENANCE SERVICES, INC.,
et al.,

Defendants.

**ORDER (1) DIRECTING
DEFENDANTS TO ANSWER
COMPLAINT, (2) GRANTING
DEFENDANT'S MOTION TO
COMPEL, AND (3) DENYING
WITHOUT PREJUDICE
PLAINTIFF'S DISCOVERY DISPUTE
JOINT REPORTS**

[Re: Docket Nos. 49, 58, 62]

BACKGROUND

This is a wage-and-hour action that plaintiff Marvin Maldonado ("Maldonado") filed against his former employer Crew Maintenance Services, Inc. ("Crew Maintenance") and its owners and/or operators Annamaria Cerros ("Annamaria"), Jose Cerros ("Jose"), and Luis Cerros ("Luis") (collectively, "Defendants").

On August 3, 2011, Annamaria filed a letter to this Court asking for an order compelling Maldonado to provide further responses to her interrogatories. Docket No. 49. Although her letter did not comply with this Court's recently-enacted Standing Order re: Civil Discovery Disputes (the "Standing Order"), the Court set a briefing schedule and a hearing date for her motion. Docket No. 50.

In turn, Maldonado filed a brief opposing Annamaria's motion. Docket No. 55. He also filed two Discovery Dispute Joint Reports, pursuant to the Standing Order. Docket Nos. 58, 62.

The Court held oral argument on all three disputes on August 30, 2011. Docket No. 68.

DISCUSSION

A. Defendants' Answers

The Court first addresses a housekeeping matter. Upon review of the docket and the Court's case file, it appears that only two Defendants have answered Maldonado's complaint, but even those answers have not been uploaded to the Court's electronic case filing ("ECF") system. More specifically, the Court has in its case file an answer from Annamaria and an answer from Luis, but these two answers are not on ECF. Accordingly, the Court orders that the Clerk of the Court upload these two documents onto ECF forthwith.

No answers exist for Jose or the entity Crew Maintenance. As the Court stated at the hearing, Jose and Crew Maintenance shall have 7 days from the date of this order to answer Maldonado's complaint.¹

B. Annamaria's Motion

Maldonado opposed Annamaria's motion to compel, but only on procedural grounds. He argued that the Court should deny her motion because it was filed in the form of a letter to the Court rather than in accordance with the Standing Order. While it is true that her motion does not meet the Standing Order's requirements, the Standing Order allows the Court to disregard these requirements should it decide to do so. This Court did so when it set a briefing schedule and hearing date on Annamaria's motion. Thus, Maldonado's argument is unpersuasive.² And, since he failed to oppose her motion on any substantive grounds, the Court grants her motion. Maldonado shall provide further responses to her Interrogatory Nos. 1-5 within 7 days from the date of this order.

C. Maldonado's Two Discovery Dispute Joint Reports

¹ The Court also explained to Defendants that Crew Maintenance may only do so through an attorney. See Civ. L.R. 3-9(b).

² The Court also notes that since Annamaria is proceeding pro se and is not registered on ECF, she would not have received email notification of the Court's new Standing Order on June 3, 2011, as ECF-registered attorneys did.

1 Maldonado also filed two Discovery Dispute Joint Reports. While they are captioned as
2 "joint" reports, in actuality they are only submitted by Maldonado and only contain his arguments.
3 This is because he filed them before Annamaria and Luis had a chance to provide their input. In this
4 situation, the Court denies Maldonado's reports without prejudice, and the parties are directed to
5 comply with the terms of the Standing Order. Should the parties fail to resolve the disputes, they
6 may file new joint reports seeking this Court's intervention.

7 CONCLUSION

8 Based on the foregoing:

- 9 1. The Clerk of the Court is directed to upload Annamaria's and Luis's answers to ECF;
- 10 2. Jose and Crew Maintenance are ordered to answer Maldonado's complaint within 7 days
11 from the date of this order;
- 12 3. Annamaria's motion to compel is GRANTED and Maldonado shall provide further
13 responses to her Interrogatory Nos. 1-5 within 7 days from the date of this order; and
- 14 4. Maldonado's joint reports are DENIED WITHOUT PREJUDICE and the parties are directed
15 to comply with this Court's Standing Order.

16
17 **IT IS SO ORDERED.**

18 Dated: Sept. 6, 2011

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21 HOWARD R. LLOYD
22 UNITED STATES MAGISTRATE JUDGE
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1 **C09-03463 HRL Notice will be electronically mailed to:**

2 Robert David Baker attyatlaw@earthlink.net

3 **Notice will be mailed to:**

4 Crew Maintenance Services, Inc.
5 905 Apricot Avenue, #E
6 Campbell, CA 95008

7 Anna Maria Cerros
8 905 Apricot Avenue, #E
9 Campbell, CA 95008

10 Jose Cerros
11 905 Apricot Avenue, #E
12 Campbell, CA 95008

13 Luis Cerros
14 905 Apricot Avenue, #E
15 Campbell, CA 95008

16 **Counsel are responsible for distributing copies of this document to co-counsel who have not**
17 **registered for e-filing under the court's CM/ECF program.**
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